

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO.: 3:08CV358**

TURNBERRY HOMES, LLC

Plaintiff,

vs.

**DOUGLAS E. TINO and DOUGLAS
E. TINO, INC.,**

Defendants.

ORDER

THIS MATTER IS BEFORE THE COURT on Defendant's Motion to Dismiss pursuant to 12(b)(6) of the Federal Rules of Civil Procedure. A motion hearing was held this day, February 18, 2009 before the undersigned. For the reasons stated in open court,

IT IS THEREFORE ORDERED that the Motion is **DENIED** in part and **GRANTED** in part. The Motion to dismiss the claims for statutory indemnity under N.C. Gen Stat. sec. 25-2-312(3), fraudulent and negligent misrepresentation, and unfair or deceptive acts or practices under N.C. Gen. Stat. sec. 75-1.1 is **DENIED**. The Motion to dismiss Plaintiff's claim for common law indemnity is **GRANTED**.

Signed: February 18, 2009



Graham C. Mullen
United States District Judge

